

APPEAL NO. 032607
FILED NOVEMBER 12, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 27, 2003. With respect the issues before him, the hearing officer determined that the appellant (claimant) sustained a compensable injury on _____, and that he had disability from February 12 to April 11, 2002. In his appeal, the claimant argues that the hearing officer's determination that his disability ended on April 11, 2002, is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that he claimant's disability ended on April 11, 2002. The claimant had the burden of proof on that issue and it presented a question of fact for the hearing officer. There was conflicting evidence presented on the disputed issue. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As such, the hearing officer was required to resolve the conflicts and inconsistencies in the evidence and to determine what facts the evidence established. In this instance, the hearing officer simply was not persuaded that the claimant sustained his burden of proving that he had disability after April 11, 2002, as a result of his compensable injury. The hearing officer was acting within his province as the fact finder in so finding. Nothing in our review of the record reveals that the challenged determination is so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb the disability determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

In his appeal, the claimant argues that he was not given proper assistance by the ombudsman at the hearing. The claimant did not raise any objection to the ombudsman's assistance and indeed, in response to questioning from the hearing officer, the claimant stated that he wanted to proceed with the assistance of the ombudsman. In addition, after reviewing the record, we find no evidence of the ombudsman having been anything but completely competent in her assistance of the claimant and we perceive no error. The claimant also argues that the ombudsman did not introduce all of the necessary evidence at the hearing. It was the claimant's responsibility to ensure that all of the exhibits he wanted in evidence were offered into evidence at the hearing. The claimant has not demonstrated grounds for reversal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge